

loss in both ears due to exposure to steel work, equipment, pneumatic tools and other noises while in the performance of duty. He noted that he first became aware of his condition and attributed it to his federal employment on April 10, 2015. Appellant retired on September 2, 2017. In support of his claim, he provided forms from the employing establishment's hearing conservation program. OWCP undertook additional development of his claim.

On March 5, 2018 OWCP referred appellant to Dr. Xinyan Huang, a Board-certified otolaryngologist, for an otologic examination and audiological evaluation. In his March 21, 2018 report, Dr. Huang performed an otologic evaluation of appellant and audiometric testing was obtained on his behalf on March 21, 2018. Testing at the frequency levels of 500, 1,000, 2,000, and 3,000 cycles per second revealed the following: right ear 25, 25, 40, and 65 decibels; left ear 25, 30, 50, and 65 decibels. Dr. Huang advised that, in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),² appellant had 20.625 percent impairment of the right ear due monaural loss, and 26.25 percent impairment of the left ear due to monaural loss. Utilizing the combined hearing loss formula, he concluded that appellant had 21.563 percent binaural hearing loss. Dr. Huang then added an additional two percent for tinnitus impairment to reach binaural impairment of 23.56 percent. He diagnosed bilateral sensorineural hearing loss and tinnitus due to appellant's exposure to noise in the workplace. Dr. Huang recommended hearing aid amplification.

By decision dated April 9, 2018, OWCP accepted appellant's occupational disease claim for binaural sensorineural hearing loss and bilateral tinnitus.

On April 9, 2018 OWCP requested an OWCP district medical adviser complete a hearing impairment calculation worksheet.

In an April 30, 2018 report, Dr. Charles Pettit, a Board-certified otolaryngologist and a district medical adviser, provided an impairment calculation worksheet which, based on Dr. Huang's audiometric testing, indicated that appellant had 21 percent monaural loss in the right ear and 26 percent loss in the left ear. He then applied the combined hearing loss formula, finding 22 percent binaural loss. Dr. Pettit added two percent for "troublesome tinnitus," for a total of 24 percent binaural loss. He advised that hearing aids were authorized.

By decision dated June 27, 2018, OWCP granted appellant a schedule award for 24 percent binaural hearing loss. It found that he was entitled to 24.96 weeks of schedule award compensation.

LEGAL PRECEDENT

The schedule award provisions of FECA³ and its implementing regulations⁴ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. FECA, however, does not

² A.M.A., *Guides* (6th ed. 2009).

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by OWCP for evaluating schedule losses and the Board has concurred in such adoption.⁵

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*. Using the frequencies of 500, 1,000, 2,000, and 3,000 cycles per second, the losses at each frequency are added up and averaged.⁶ Then, the fence of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.⁷ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁸ The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.⁹ The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.¹⁰ The policy of OWCP is to round the calculated percentage of impairment to the nearest whole number.¹¹ OWCP procedures provide that percentages should not be rounded until the final percent for award purposes is obtained. Fractions should be rounded down from .49 and up from .50.¹²

If tinnitus interferes with activities of daily living, including sleep, reading, and other tasks requiring concentration, enjoyment of quiet recreation and emotional well-being, up to five percent may be added to measurable binaural hearing impairment.¹³

ANALYSIS

The Board finds that the case is not in posture for decision.

⁵ See *J.W.*, Docket No. 17-1339 (issued August 21, 2018); *R.D.*, 59 ECAB 127 (2007); *Bernard Babcock, Jr.*, 52 ECAB 143 (2000).

⁶ A.M.A., *Guides* 250.

⁷ *Id.*; *C.D.*, Docket No. 18-0251 (issued August 1, 2018).

⁸ *Id.*

⁹ *Id.*

¹⁰ See *J.W.*, *supra* note 5; *C.D.*, *supra* note 7.

¹¹ *P.L.*, Docket No. 17-0355 (issued June 27, 2018).

¹² *C.D.*, *supra* note 7; Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(b)(2)(b) (January 2010).

¹³ A.M.A., *Guides* 249.

In his March 21, 2018 report, Dr. Huang noted a history of appellant's work-related noise exposure, and his review of the statement of accepted facts and the medical record. He described findings upon examination and attached an audiogram report dated March 21, 2018 which reflected testing at the frequency levels of 500, 1,000, 2,000, and 3,000 cycles per second revealed the following: right ear 25, 25, 40, and 65 decibels; left ear 25, 30, 50, and 65 decibels. Dr. Huang diagnosed high-frequency binaural sensorineural hearing loss and tinnitus causally related to factors of appellant's federal employment. He advised, that in accordance with the sixth edition of the A.M.A., *Guides*,¹⁴ appellant had 20.625 percent impairment of the right ear due monaural loss, and 26.25 percent impairment of the left ear due to monaural loss. Dr. Huang multiplied appellant's hearing loss in his better ear, 20.625 percent on the right, by 5 to yield 103.125 percent. He then added 26.25, appellant's loss in his left ear, reaching a subtotal of 129.375 which, when divided by 6, yields 21.56 percent binaural loss. Utilizing the combined hearing loss formula, Dr. Huang concluded that appellant had 21.56 percent binaural hearing loss, and included an additional 2 percent impairment rating for tinnitus to reach 23.56 percent binaural hearing loss. He did not round up his final calculation.

OWCP asked its district medical adviser, Dr. Pettit, to review the record and provide an impairment evaluation. In his April 30, 2018 report, Dr. Pettit reviewed Dr. Huang's March 21, 2018 report. On an impairment calculation worksheet, he recorded Dr. Huang's frequency levels and indicated that appellant had 21 percent monaural loss in the right ear and 26 percent loss in the left ear. Dr. Pettit then applied the combined hearing loss formula, finding 22 percent binaural loss. He added 2 percent for "troublesome tinnitus," for a combined 24 percent binaural loss. Dr. Pettit, however, did round the hearing loss for each ear early in his calculations when dividing the total loss of each ear by 4. For a total loss of 155 decibels in the right ear, he found an average threshold of 39, whereas the calculation before rounding yields an average threshold of 38.75, as found by Dr. Huang. In appellant's left ear, Dr. Pettit utilized the proper formula by properly arriving at the average of 42.5.

As previously noted, OWCP procedures provide that percentages should not be rounded until the final percent for award purposes is obtained.¹⁵ Dr. Pettit's calculation was therefore in error. Accordingly, this case must be remanded to OWCP for recalculation of appellant's binaural hearing loss pursuant to OWCP procedures. After such further development as necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹⁴ *Supra* note 6.

¹⁵ *Supra* note 12.

ORDER

IT IS HEREBY ORDERED THAT the June 27, 2018 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 13, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board